

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, October 1, 2003

Division One

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, October 1, 2003

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

A100774 The People,
 v.
 Frank Frederick Johnson.
Cause called and argued by Meredith Watts, counsel for appellant, and Linda Murphy, counsel for respondent. Cause ordered submitted.

A101502 Iron and Silk, Inc.,
 v.
 Champion Arts, Inc. et al..
Cause called and argued by David M. Given, counsel for appellants, and James V. Weixel, Jr., counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, October 1, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

Justice Margulies did not participate in the first case.

A098581 The People,
 v.
 Charles Anthony Brown.
Cause called and argued by Carolyn Fershtman, counsel for appellant, via teleconference, and Margo Yu, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Swager left the bench. Justice Margulies participated in the remainder of the calendar.

A097931 The People,
 v.
 Maurice Celestine..
Cause called and argued by Renee Torres, counsel for appellant, and Lisa Ashley Ott, counsel for respondent. Cause ordered submitted.

A099213 Delta V-A, Ltd. et al.,
 v.
 Clean Power Technology, Inc. et al.
Cause called and argued by Craig M. Hunt, counsel for appellant, and Jeffrey N. Garland, counsel for respondent. Cause ordered submitted.

A102255 Teamsters Local 856 et al.,
 v.
 Priceless, L.L.C.
Cause called and argued by James M. Chadwick, counsel for appellant, and M. Suzanne Murphy, counsel for respondents. Cause ordered submitted.

A102120 Cathleen A. Platt,
v.
David Joel Berger.
Cause called and argued by Mark E. Himmelstein, counsel for appellant, and
Salvatore J. Sunseri, counsel for respondent.

Court adjourned.

No cases will be argued on October 2, 2003.

Wednesday, October 1, 2003 (continued)

Division Two

A098264 -- In re Joshua H., a Person Coming Under the Juvenile Court Law. The People v. Joshua H.

The case is remanded to the juvenile court for a new dispositional hearing consistent with the views expressed above. The court is also instructed to strike the knife-use weapon enhancement and to reduce the maximum term accordingly. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

A100562 -- Melanie Seguire et al. v. City and County of San Francisco et al.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A100621 -- Service Employees International Union, Local No. 616 and Amir Gholami v. Civil Service Commission of the County of Alameda; County of Alameda, R.P.I.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Friday, October 3, 2003

Division Two

A097036 -- The People v. David Miller Laviene.

The judgment is reversed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

Monday, October 6, 2003

Division One

A100774 -- The People v. Frank Fredrick Johnson.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A100088 -- The People v. Michael Amos Scott.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, October 7, 2003

Division One

A100809 -- The People v. Marcel Barnes.

The superior court abused its discretion in denying the People's motion to reinstate the complaint. Although the magistrate has the inherent power to control the proceedings, that power does not extend to denying a motion for a continuance on improper grounds. The order denying the motion to reinstate the complaint is reversed. The superior court is directed to return the case to the magistrate with orders to resume the proceedings within 10 days, pursuant to section 871.5, subdivision (e). Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A098718 -- The People v. James Carryl Fisher.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A099172 -- The People v. Rebecca Susan Moline.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A099047 -- The People v. Sandra Fay Taylor.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Five

A099885 -- The People v. Jorge Arredondo.

The judgment of conviction is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A101684 -- The People v. James Charles Thomas.

The \$200 restitution fine imposed pursuant to section 1202.4 is stricken. In all other respects the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Wednesday, October 8, 2003

Division Two

A099299 -- Gerald Pannone et al. v. City of Brisbane et al.

Standing being jurisdictional (*Common Cause v. Board of Supervisors*, *supra*, 49 Cal.3d at p. 438), the court erred in allowing the case to proceed beyond that bifurcated issue at trial. The judgment denying relief on other bases is accordingly affirmed, but for lack of standing. Costs to the City. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

A100505 -- Marc Seidenfeld v. Paul N. Halvonik.

By the Court: Appellant's petition for rehearing is denied. Corrigan, Acting P.J.

Division Four

A101224 -- The People v. Brian Dirk Aubrey.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Wednesday, October 8, 2003 (continued)

Division Five

A100345, A101238, A101546 -- The Blaine Family Trust et al. v. San Francisco Residential Rent Stabilization and Arbitration Board; Douglas Perlstadt et al., R.P.I.

The judgment is reversed and the matter is remanded to the trial court with directions to deny the petition for writ of administrative mandamus. Costs on appeal are awarded to the Board, the appellant in A100345 and A101238. The appeal in A101546 is dismissed, and the parties shall bear their own costs in that appeal (A101546). Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A103365 -- In re David W., a Person Coming Under the Juvenile Court Law. David W. v. The Superior Court of Humboldt County; Humboldt County Department of Health and Human Services, R.P.I.

The order to show cause is discharged, and the petition for extraordinary relief and request for a stay are denied on their merits. (Cal. Const., art. VI, § 14 rule 39.1B(o); *Kowis v. Howard* (1992) 3Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (1).) In order to avoid delaying these proceedings any further, our decision is final as to this court immediately. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A101450 -- Andrew Walker v. Iasco.

The judgment is affirmed. The matter is remanded to the trial court for an award to IASCO of attorney fees incurred on appeal. IASCO shall also recover its costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Thursday, October 9, 2003

Division One

A100579 -- The People v. Laurie Anne Bausch.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A097931 -- The People v. Maurice Celestine.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A098921 -- The People v. Luis Gonzalez.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A102120 -- Cathleen A. Platt v. David Joel Berger.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A100822 -- Jennie D. Cosio et al. v. William Walters.

The appeal is dismissed upon our own motion. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A101888 -- The People v. Samuel Joseph Pieper.

Our review of the record discloses that appellant was represented by counsel throughout the various proceedings. We discern no sentencing error and find no issues that require further briefing. Accordingly, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Thursday, October 9, 2003 (continued)

A100826 -- The People v. Keir Yegel Saunders.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A099625 -- The People v. Robert James Compton.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A100528 -- Sien Lee v. The Superior Court of Alameda County;
Norman A. McKenzie, R.P.I.**

By the Court: Sien Lee's petition for rehearing is denied. McGuiness, P.J.

A097247 -- The People v. Bruce Edward North.

The judgment is reversed. Parrilli, J. I Concur: Corrigan, Acting P.J. (See concurring opinion by Pollak, J.) (Certified for Publication.)

Division Four

A100339 -- The People v. Guadalupe Cruz.

Appellate counsel has asked us to review the record pursuant to *People v. v. Wende* (1979) 25 Cal.3d 436. We have done so and find no arguable issues. Appellate counsel has also filed a separate habeas corpus petition, which we deny by separate order. The judgment and sentence are affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A099127 -- The People v. Jerome L. Grimes.

Accordingly, this appeal is dismissed as moot. Reardon, J. We Concur: Kay, P.J., Rivera, J.

Thursday, October 9, 2003 (continued)

A100772 -- The People v. Somphan Khongman.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A101938 -- In re Stacy S. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Department of Social Services v. Patricia S.

The order of the juvenile court is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Friday, October 10, 2003

Division One

A099213 -- Delta V-A LTD., et al. v. Clean Power Technology, Inc., et al.

The order dismissing Hodges from the case and striking the complaint in its entirety against the other respondents and dismissing them from the case, are affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A100083 -- The People v. Carlos D. Hawkins.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A100875 -- Peter Lewis et al. v. Matthew Katz et al.

The judgment is affirmed. Respondents are awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A101332 -- Steven Eric Walker et al. v. State of California.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Five

A099844 -- The People v. Larry Wilford Dixon.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Friday, October 10, 2003 (continued)

A097143 -- Global Interprint, Inc. v. Larry Burton et al.; Ken Coburn.

A097706 -- Global Interprint, Inc. v. Larry Burton et al.

This modification does not change the judgment. Jones, P.J. (Not for Publication.)

A103955 -- In re Amy L. et al., Persons Coming Under the Juvenile Court Law. Social Services Agency v. Olivia L.

By the Court: On the court's own motion, the above-referenced appeal is dismissed as premature. The juvenile court has not yet entered a dispositional order in the underlying matter. Once a dispositional order has been entered, if appellant wishes to appeal, she should file a new notice of appeal with the clerk of the superior court. Jones, P.J.

A099584 -- In re Rene N. et al., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Rene N. et al.

The orders terminating parental rights are affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Tuesday, October 14, 2003

Division One

A100704 -- Pauluine Bauer, et al. v. W. John Miottel, Jr.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

A101798 -- The People v. Byron P. Peirson III.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

A101495 -- The People v. Jake Gilbert Romero, Jr.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Three

A100085 -- The People v. Stanley Cameron Scott.

By the Court: The petition for rehearing is denied. Corrigan, Acting P.J.

A099893 -- In re Veronica W. et al., Persons Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services v. Masharie H.

The order is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Division Four

A102796 -- The People v. James David McClearn.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, October 14, 2003

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Reardon, J. and Sepulveda, J.; Channing Hoo, Deputy Clerk; Guardsmark Officer Michael Aurigui and CHP Officer Joe Frasier, Bailiffs.

A098368 Gordon Gee et al.
A101344 v.
American Realty & Construction, Inc. et al.
Causes called. Mattaniah Eytan argued for appellants American et al. Bradley Kass argued for respondents. Causes submitted.

At this point the Court reconstituted itself to include Kay, P.J., Reardon, J., and Rivera, J.

A100794 People
v.
Damien Antoine Henderson
Cause called. Meredith Watts argued for appellant Henderson. Nancy Tung argued for respondent. Cause submitted.

At this point the Court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A098591 Lucia Prado
v.
Fred Damato
Cause called. Mattaniah Eytan argued for appellant Prado. Linda L. Mallette argued for respondent. Cause submitted.

A101558 People
 v.
 Vernon L.
Cause called. Kathryn Seligman argued for appellant Vernon L. Bridget
Billetter argued for respondent. Cause submitted.

A095645 People v. Reginald Tyrone Smith
A101919 In re Reginald Tyrone Smith on Habeas Corpus
Causes called. Carol Strickman argued for appellant/petitioner Smith. Greg
Zywicke argued for respondent. Causes submitted.

The court recessed at 11:18 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, October 14, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Sepulveda, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Joe Frasier, Bailiff.

- A101038 People
 v.
 Edward Victor Tayag
Cause called. Irma Castillo argued for appellant Tayag via telephone. Allen Crown argued for respondent. Cause submitted.
- A097542 People
 v.
 John William Sloan
Cause called. Stephen Bedrick argued for appellant Sloan. Sharon Wooden argued for respondent. Cause submitted.
- A100565 Benson Barbeques et al.
 v.
 Advanced Manufacturing and Development et al.
Cause called. David B. Goodwin argued for appellants Advanced Manufacturing et al. Cheryl Martinsen argued for respondents. Cause submitted.

The Court adjourned at 2:38 p.m.

Wednesday, October 15, 2003

Division Two

A096451 -- Stephen J. Barrett et al. v. Ilena Rosenthal.

The order granting the special motion to strike pursuant to section 425.16 is reversed insofar as it applies to appellant Polevoy, in all other respects the order is affirmed. The matter is remanded to the trial court for further proceedings consistent with this opinion. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Partial Publication.)

A098471 -- The People v. Donnell McGilberry.

By the Court: The petition for rehearing is denied. Haerle, Acting P.J.

Division Three

A101008 -- The People v. Nathaniel Bishop.

A102056 -- In re Nathaniel Bishop on Habeas Corpus.

The judgment is affirmed. The habeas corpus petition is denied. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A101311 -- Yan I Gimelfarb v. Paceco Corporation.

The orders of the trial court are affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Thursday, October 16, 2003

Division One

**A102476 -- Luis M., a Minor, etc. v. Florence Crittendon Services
Infant Day Care Center.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J.,
Margulies, J. (Not for Publication.)

A099974 -- The People v. David Felix Bernal.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

A101621 -- The People v. Lance Maynard Gardner.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J.,
Margulies, J. (Not for Publication.)

A102966 -- The People v. Patrick Francis Kerr.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J.,
Swager, J. (Not for Publication.)

Division Two

**A099247 -- In re Shelton C., IV, a Person Coming Under the Juvenile
Court Law. Alameda County Social Services Agency v. Shelton C., Sr.**

The order terminating father's parental rights and denying father's section
388 petition is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J.

Division Four

A102341 -- The People v. Arturo Garcia.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J.
(Not for Publication.)

Friday, October 17, 2003

Division Two

A102821 -- Alameda Drug Co., Inc. v. Diana M. Bonta.

The Court: For the foregoing reasons, this appeal is dismissed. Haerle, Acting P.J.

A097419 -- Horacio Candia v. City and County of San Francisco et al.

The judgment is affirmed. Candia is to pay costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A102201 -- The People v. Francisco Rodriguez.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A100077 -- Russell Troup et al. v. Denney Ross Dodson et al.

The case is remanded for the trial court to correct the judgment and to conduct any further proceedings it deems necessary that are consistent with this opinion. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Four

A101686 -- The People v. Jennifer Ann Dague.

The order revoking and then reinstating appellant's probation is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A098865 -- The People v. Dante Love.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Monday, October 20, 2003

Division One

**A095614, A095640, A097693, A097697 -- John Paul Klima, as
Executor, etc. v. Volkswagen of America, Inc. et al.**

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on September 22, 2003 be modified as follows: (See order.) There is no change in the judgment. Respondent's petition for rehearing is denied. Marchiano, P.J. (Not for Publication.)

Division Two

**A103297 -- Roshon B. v. The Superior Court of San Francisco County;
San Francisco County Department of Human Services, R.P.I.**

The petition is denied on the merits. (Cal. Constitution, art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888; section 366.26 subd. (1)(1).) Our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

A102202 -- The People v. Jose Luis Galvan.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A099816 -- The People v. Paul George.

The appeal is dismissed as moot. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A097247 -- The People v. Bruce Edward North.

The Court: It is ordered that the opinion filed herein on October 9, 2003, be modified as follows: (See order.) There is no change in the judgment. Corrigan, Acting P.J. (Certified for Publication.)

Tuesday, October 21, 2003

Division One

A098307 -- Donald Williams v. Syed Ali Husain.

Order Modifying Opinion and Denying Petition. The Court: It is ordered that the opinion filed herein on September 22, 2003, be modified as follows: (See order.) The petition for rehearing is denied. There is no change in the judgment. Stein, Acting P.J. (Not for Publication.)

Division Two

A100353 -- The People v. Brant Matthew Gaskill.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A101260 -- Estate of Thomas J. Gonzales II, Deceased.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A098644 -- Estate of Henry Joseph Thiemann, III, Deceased.

The judgment is affirmed. Each party to bear its own costs. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, October 21, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Parrilli J., Pollak, J., and I. Calanoc, Deputy Clerk.

A094701 The People,
v.
Lee Snyder,
Cause called and argued by Mark Greenberg, counsel for appellant, and
Aileen Bunney, counsel for respondent. Cause ordered submitted..

A100168 Jane Chamberlin,
v.
Novocol Pharmaceutical of Canada et al.
Cause called and argued by John Ferry, counsel for appellant, and Joel
Liberson, counsel for respondent. Cause ordered submitted. Pollak, J. left
the bench.

A100668 Mark Borsuk et al.,
v.
Keith Ryan.
Corrigan, J. approached the bench. Cause called and argued by Thomas Del
Beccaro, counsel for appellant, and James Johnson, counsel for respondent.
Cause ordered submitted.

A098688 Carol Price,
v.
Heller Ehrman White & McAuliffe.
Cause called and argued by Charles Kagee, counsel for appellant, and
Suzanne Mellard, counsel for respondent. Cause ordered submitted.
McGuiness, P.J. left the bench.

A099771 Nolberto Lachaga et al.
v.

United Parcel Service, Inc. et al.

Pollak, J. approached the bench. Cause called and argued by John Peterson, counsel for appellant, and Gregory Brown, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Tuesday, October 21, 2003 (continued)

Division Four

A100672 -- The People v. Mark Allen Bates.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A098368, A101344 -- Gordon Gee et al. v. American Realty & Construction, Inc., et al.

The order filed February 8, 2002, awarding defendants attorney fees of \$13,432, and the judgment entered on February 6, 2003, awarding plaintiffs attorney fees of \$47,000, are reversed. Defendants shall recover their costs of appeal as allowed by rule 27(c) of the California Rules of Court. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Tuesday, October 21, 2003 (continued)

A100794 -- The People v. Damien Antoine Henderson.

The judgment of conviction is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A101251 -- Deborah Drummer v. San Francisco Housing Authority et al.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Wednesday, October 22, 2003

Division One

A098581 -- The People v. Charles Anthony Brown.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A101687 -- In re Marcus W., a Person Coming Under the Juvenile Court Law. The People v. Marcus W.

The order of the juvenile court is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Three

A099555 -- John L. Gutierrez et al. v. City of Oakland et al.

Two court days before oral argument was scheduled on this matter, defendants requested, without explanation, that we dismiss the appeal pursuant to California Rules of Court, rule 20(c). Accordingly, the appeal is dismissed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Wednesday, October 22, 2003 (continued)

Division Four

A101493 -- The People v. Rafael Garcia Figueroa.

We find no error in the trial court's order requiring defendant to report to the county financial officer before he exercised his right to have a hearing before the court regarding his ability to pay probation fees. The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A098591 -- Lucia Prado v. Fred Damato.

The trial court's postjudgment orders regarding attorney fees are affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

[space reserved for Division 5 minutes]

Thursday, October 23, 2003

Division Two

A100585 -- Jose Castanon v. City of Ukiah.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.
(Not for Publication.)

**A103390 -- Alesia S. v. The Superior Court of Contra Costa County;
Bureau of Children and Family Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. The permanency planning hearing is set for October 29, 2003 and, therefore, our decision on the writ petition is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

Division Three

A100000 -- The People v. Luis Alexander Duenas-Alvarez.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Friday, October 24, 2003

Division Two

A100019 -- The People v. Roshawn Coldcleugh.

The trial court's order denying the motion to suppress is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A100680 -- The People v. Janis Kay Cortez.

The trial court's orders are affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A099027 -- In re Daniel F. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Julie F. et al.

The petition for rehearing is denied. Kline, P.J.

A101934 -- In re Timothy L., a Person Coming Under the Juvenile Court Law. The People v. Timothy L.

The order adjudicating appellant a ward of the court and placing him in CYA is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A097298, A096947 -- The Regents of the University of California v. SSW, Inc., et al.

The order denying Tuthill and SSW's petition to compel arbitration is affirmed. Regents shall recover costs on appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A101867 -- United Commercial Bank v. Arlene M. Campbell.

Accordingly, we conclude that it is best to treat the appeal as abandoned for failure to state any intelligible legal argument. The appeal is dismissed. (*Berger v. Godden, supra*, 163 Cal.App.3d at p. 1119.) Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Friday, October 24, 2003 (continued)

Division Three

A100668 -- Mark Borsuk, et al. v. Keith Ryan, et al.

The order denying the motion of appellants to disqualify respondents' attorneys is affirmed. Respondents' request for sanctions is denied. In all other respects, we decline to address the issue raised on this appeal as having been mooted by the intervening decision in arbitration. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A100168 -- Jane Chamberlin v. Novocol Pharmaceutical of Canada, et al.

The judgment is reversed and the matter is remanded to the trial court for further proceedings. Plaintiff is awarded costs on this appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A102986 -- The People v. Nathan Godwin.

Appellant was represented by counsel through the proceedings. There was no sentencing error. There are no issues that require further briefing. The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A103156 -- The People v. Steve Gene Rosen.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Friday, October 24, 2003 (continued)

Division Five

A100901 -- In re Marcus B., a Person Coming Under the Juvenile Court Law. The People v. Marcus B.

The order of commitment to CYA is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A100170 -- California Healthcare Association v. Diana Bonta.

By the Court: The opinion filed September 19, 2002, is modified as follows: (See order.) This modification does not change the judgment. Jones, P.J. (Not for Publication.)

A100530 -- Bruce Choder v. Berger, Kahn, Shafon, etc., et al.

The order is reversed. Costs to appellants. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

A102349 -- The People v. Quincy Culpepper.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A100079 -- Patricia Gall v. Heart Consciousness Church, Inc.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A102320 -- Storek & Storek, Inc., et al. v. The Superior Court of Alameda County; Citicorp Real Estate, Inc., et al., R.P.I.

The order to show cause is discharged and the petition for writ of error *coram vobis* is granted. The judgment of November 27, 2002 is reversed, and the matter is remanded to respondent superior court for reconsideration of the motion for entry of judgment. The proceedings shall be heard by a trial judge other than Judge Richman. Upon issuance of remittitur, the stay of the briefing heretofore ordered in A101564 and A101565 shall be dissolved and the appeals shall be dismissed as moot. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Monday, October 27, 2003

Division Two

A102293 -- The People v. Edward Anthony Carney.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A101967 -- The People v. Lawrence Henry Tromp.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A100684 -- In re Nancy G., a Person Coming Under the Juvenile Court Law. Marin County Department of Social Services v. Norma G.

We affirm the orders of the juvenile court adjudging Nancy G. a dependent of the court and ordering her placement in foster care. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A099765 -- Patrick Campbell v. Maremont Corporation et al.

By the Court: Since this court's September 26, 2003 opinion does not meet the standard for publication as set forth in rule 976(b) of the California Rules of Court, the requests for publication are denied. Pursuant to rule 978(a) of the California Rules of Court, the Clerk is directed to forward to the Clerk of the Supreme Court the requests for publication, the opinion, and a copy of this order. McGuiness, P.J.

A094701 -- The People v. Lee Snyder.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Publication.)

Monday, October 27, 2003 (continued)

Division Four

**A102712 -- In re D.J., a Person Coming Under the Juvenile Court Law.
The People v. D.J.**

The order of commitment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A097542 -- The People v. John W. Sloan.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A101038 -- The People v. Edward Victor Tayag.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A102290 -- The People v. Stephanie Henderson.

The order committing Stephanie Henderson to Patton State Hospital is reversed in part. We remand so that the trial court may modify the order to correct the maximum commitment period. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, October 28, 2003

Division One

A100821 -- The People v. Rick Walter Belfiore.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A101462 -- The People v. Ray Slaughter.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

A103957 -- Maurice Davis v. City of San Francisco et al.

By the Court: Appellant Maurice Davis purports to appeal from the trial court's August 8, 2003 order sustaining a demurrer to his amended complaint without leave to amend. An appeal may be taken only after the trial court has entered a written order or judgment of dismissal. (See *Hill v. City of Long Beach* (1995) 33 Cal.App.4th 1684, 1695; see also Cal. Rules of Court, rule 391.) In the absence of such an order or judgment, the above-referenced appeal is dismissed as premature. Kline, P.J.

A104201 -- Miguel Enrique Diaz v. County of San Mateo et al.

By the Court: Appellant Miguel Enrique Diaz purports to appeal from the trial court's March 25, 2003 dismissal order. Appellant did not mail his notice of appeal until September 24, 2003, and it was not received by the trial court clerk until September 29, 2003. Accordingly, the above-referenced appeal is dismissed as untimely. (See Cal. Rules of Court, rule 2(a)(3) [notice of appeal must be filed within 180 days after the entry of appealable order].) Kline, P.J.

Tuesday, October 28, 2003 (continued)

Division Three

A099771 -- Nolberto Lachaga et al. v. United Parcel Service, Inc., et al.

The order granting a new trial is affirmed. Pollak, J. We Concur:
Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A101804 -- The People v. Antonio Torres Pulido.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J.,
Parrilli, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, October 28, 2003

The Court convened at 9:30 a.m. at Golden Gate University on Mission Street in San Francisco, California. Present: Kay, P.J., Reardon, J. and Sepulveda, J.; Channing Hoo and Pam Aguilar, Deputy Clerks; CHP Officers Vince Chambers, Joe Frasier, Arnold Stamps, Shawn Chase, and Sgt. Jonathan Mobley, Bailiffs.

A101491 Louis J. Hoffman
 v.
 The State Bar of California
Cause called. Stephen R. Barnett argued for appellant Hoffman. James Wagstaff argued for respondent. Causes submitted.

At this point the Court recessed for 10 minutes and then reconstituted itself to include Kay, P.J., Reardon, J., and Sepulveda, J.

A101135 Maria Buenrostro
 v.
 Guckenheimer Enterprises
Cause called. Robert Lubin argued for appellant Buenrostro. Nancy E. Pritikin argued for respondent. Cause submitted.

At this point the Court recessed for 10 minutes and then reconstituted itself to include Kay, P.J., Reardon, J., and Rivera, J.

A101088 People
 v.
 Racardo Shevez Jackson
Cause called. Guy A. Campisano, Jr. argued for appellant Jackson. Jamie Weyand argued for respondent. Cause submitted.

The court adjourned at 11:52 a.m.

Tuesday, October 28, 2003 (continued)

Division Five

A098616 -- Khanm Kim Luc v. Kevin Chien.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A101692 -- In re Christopher N., a Person Coming Under the Juvenile Court Law. The People v. Christopher N.

The jurisdictional and dispositional orders are affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A101345 -- The People v. Ronald Eugene Pearson.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A101363 -- Dale R. Smith v. Novato Unified School District et al.

The judgment of dismissal of plaintiff Smith for lack of standing is reversed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, October 29, 2003

Division One

A102311 -- In re Jeffrey C., Jr., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Trista C.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

A103420 -- Xiao Ping Jiang, et al. v. Byd Battery Co., LTD.

By the Court: Appellant having failed to procure the record on appeal within the time allowed or within any valid extensions of time, and having failed to apply for relief from default, the appeal filed on July 22, 2003 is dismissed. (See Cal. Rules of Court, rule 8(b).) Kline, P.J.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, October 29, 2003

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Ruvolo, J. and Imelda Santos, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that the panel for the first case on calendar would be Justices Haerle, Lambden and Ruvolo and the panel for the remaining cases would be himself and Justices Lambden and Ruvolo.

- A100532 Oree Blaise Khufu
 v.
 Jacqueline Tulskey, et al.
Cause called and argued by John Warner, counsel for appellant and Mark Bonino, counsel for respondents. Cause ordered submitted.
- A101652 Fisherman's Wharf Bay Cruise Corp., et al.
 v.
 Superior Court, San Francisco
 Blue and Gold Fleet, et al.
Cause called and argued by Ralph C. Aldredge, counsel for petitioner and Maxwell Blecher, counsel for real parties in interest. Cause ordered submitted.
- A099214 Mary Luzano
A101680 v.
 Roger Mann, et al.
Causes called and argued by Marvin Lewis, counsel for appellant and Don Candland, counsel for respondents. Causes ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A099383 The People
v.
Charles Anthony Krah
Cause called and argued by John Staley, counsel for appellant and Allan Yannow, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A099803 The People
v.
Luis Antonio Hernandez
Cause called and argued by Bruce Nickerson, counsel for appellant and Linda Murphy, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A100348 Carole Marasovic
v.
Contra Costa Adult Protective Services, et al.
Cause called and argued by Carole Marasovic, appellant in propria persona and Janet L. Holmes, counsel for respondents. Cause ordered submitted.

A099108 Executive Direction, Inc.
v.
Chubb Group of Insurance Companies, et al.
Cause called and argued by Alex Grab, counsel for appellant and Lane Ashley, counsel for respondents. Cause ordered submitted.

A098104 Michael Escamilla
v.
University of California at San Francisco
Cause called and argued by Ellen Lake, counsel for appellant and Raymond Cardozo, counsel for respondents. Cause ordered submitted.

Court recessed until Thursday, October 30, 2003 at 9:30 a.m.

Wednesday, October 29, 2003 (continued)

Division Four

A100565 -- Benson Barbecues, L.P., et al. v. Advanced Manufacturing and Development, Inc.

The judgment, and the order denying the new trial and judgment NOV motions, are affirmed. Kay, P.J. I Concur: Sepulveda, J. (See concurring opinion by Rivera, J.) (Not for Publication.)

A101558 -- In re Vernon L., a Person Coming Under the Juvenile Court Law. The People v. Vernon L.

The Solano County jurisdictional order of December 24, 2002, and the Alameda County Juvenile Court's dispositional order of January 17, 2003 are reversed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Wednesday, October 29, 2003 (continued)

**A101452 -- Pamela Jean O'Hara v. Factory 2-U Stores, Inc., et al.;
James S. Davis v. Scott Cole & Associates.**

The order is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J.
(Not for Publication.)

A095645 -- The People v. Reginald Smith.

A101919 -- In re Reginald Smith, on Habeas Corpus.

The judgment is affirmed. The petition for writ of habeas corpus is denied.
Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A100524 -- In re Dante H., a Person Coming Under the Juvenile Court
Law. Alameda County Social Services Agency v. Myisha B. et al.**

The orders are affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J.
(Not for Publication.)

Thursday, October 30, 2003

Division One

A101672 -- The People v. Kenneth Eugene Cline.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A102634 -- In re Ernest D., a Person Coming Under the Juvenile Court Law. The People v. Ernest D.

The orders adjudicating appellant a continued ward of the court and committing him to CYA are affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A100063 and A100656 -- Kent Harvey v. California Coastal Commission, et al.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Thursday, October 30, 2003

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

- A099853 Safeway, Inc.,
 v.
 WCAB
 Melba Perez
Cause called and argued by Barbara A. Walsh, counsel for petitioner and Elizabeth Rifkin, counsel for respondent. Submission was deferred pending filing of parties joint request to dismiss petition.
- A101256 William Earls
 v.
 Michael McPherson, et al.
Cause called and argued by Dana Sack, counsel for appellant and Aaron MacLeitch, counsel for respondents. Cause ordered submitted.
- A101079 West Bay Builders, Inc.
 v.
 NWD, Inc.
Cause called and argued by Cheryl Martinsen, counsel for appellant and Quinlan Tom, counsel for respondent. Cause ordered submitted.
- A097955 Frank Frisella, et al.
 v.
 Stan Vistica, et al.
Cause called and argued by James Wagstaffe, counsel for appellants Vistica and Daniel Payne, counsel for appellants Frissella. Cause ordered submitted.

A097402 Cameron Kimbark, et al.
v.
Metal Deck Specialists, Inc.
Cause called and argued by James Nielsen, counsel for appellants and
Thom Seaton, counsel for respondents. Cause ordered submitted.

COURT ADJOURNED.

Thursday, October 30, 2003 (continued)

Division Three

A099513 -- The People v. Luis Dominguez-Cruz.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A101095 -- The People v. Harold Jay Knight.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A102000 -- The People v. Robert W. Frisella.

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A101701 -- In re Alonzo C., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Guadalupe R.

The order terminating parental rights is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, October 31, 2003

Division One

A101000 -- Luzviminda Andal v. Aig Life Insurance Company et al.

The judgment in favor of defendants Tan and AIG are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A102255 -- Teamsters Local 856 et al. v. Priceless, LLC et al.

The order granting the preliminary injunction is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Certified for Publication.)

Division Two

A102156 -- The People v. Debbie Elizabeth Bow.

The order revoking appellant's probation and the sentence imposed are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A101588 -- Citicorp Diners Club, Inc. etc. v. Taryn Voget.

The judgment is affirmed. Respondent is awarded costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A101454 -- The People v. Tony Ray Lewis, Jr.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A100807 -- The People v. Ronald Anthony McClure.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Friday, October 31, 2003 (continued)

A099674 -- The People v. Joseph Kenneth Sorden.

The judgment is reversed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.
(Not for Publication.)

Division Three

A096827 -- The People v. Ricky D. Armstrong.

The judgments are reversed and the matter is remanded to the superior court for an evidentiary hearing and determination of appellant's motion to dismiss the probation revocation proceedings in case numbers VC36098, VC36102, and VC45756. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J.
(Not for Publication.)

A098385 -- The People v. Bryan Randall Monkres.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A102982 -- The People v. Candelario Duran Granillo, Sr.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J.
(Not for Publication.)

A101066 -- Miguel Padilla v. Turner Construction Company.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J.
(Not for Publication.)

Friday, October 31, 2003 (continued)

Division Five

A100959 -- Joyce Moody v. City of Vacaville, et al.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J.
(Not for Publication.)

A102272 -- In re Frank S., a Person Coming Under the Juvenile Court Law. The People v. Franks S.

The jurisdictional and dispositional orders are affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)